

# Office of Local Programs Implementation Workshop

November 18, 2008



# Office of Local Programs (OLP)



- Transportation Enhancements
- Safe Routes to School
- Congestion Mitigation & Air Quality
- Scenic Byways
- Transportation Community and System Preservation

# OLP Staff

**B.D. Wilson, Commissioner**

**Shane Tucker, Federal Program Manager, Transportation Enhancements**

**Jackie Jones, Safe Routes to School**

**Kathy Woods, Congestion Mitigation & Air Quality**

**Jayne Combs, Scenic Byways; Transportation Community and System Preservation**

**Mike Jones, Historic Preservation Coordinator**



# Role of the FHWA

**Greg Rawlings**  
**Federal Highway Administration**



# Office of Local Programs

**Shane Tucker**

**Federal Program Manager**

**Program Coordinator**

**Transportation Enhancements**



# Transportation Enhancements

- Over \$41 million in requests were submitted for 2008 Transportation Enhancements (TE) Funds.



*Greensburg Streetscape*

# TE Eligible Activities

At a minimum all projects shall meet both of the following requirements to be considered for selection:

- Project must have a surface transportation relationship
- Project must meet the requirements of at least one of twelve eligible categories



# TE Ineligible Activities

- Contaminated-soil removal associated with underground storage tanks, hazardous waste, and toxic dump cleanup
- Routine maintenance activities performed independently (e.g., repainting, roof repair, graffiti removal, mowing, drainage correction, and curb repairs)
- Administrative expenses (e.g., invoice preparation and processing, grant writing, and bookkeeping)



# TE Ineligible Activities

- Operating expenses and staffing (no salaries)
- Improvements to private property
- Interest payments on borrowed funds
- Rental property improvements for restaurant, retail, or other for-profit businesses
- Relocation expenses for property owners voluntarily selling or donating property

# TE Ineligible Activities

- Construction of recreational facilities and playgrounds
- Condemnation for acquisition of property
- Use of convict labor, including work-release programs
- Required environmental mitigation as determined by the Division of Environmental Analysis and the FHWA

# TE Ineligible Activities

- Feasibility study
- Design of a project with no funding commitment to construction of the project
- Displays, segments of buildings, or objects not directly related to transportation

*\*\*This list includes examples and does not include ALL ineligible activities.*

# Timeline

- Project selection
- Project added to Transportation Improvement Plan (TIP) (if metropolitan area)
- Project added to the Statewide Transportation Improvement (STIP) Plan
- Environmental Review
- Section 106 Review
- PR-1 to FHWA to authorize construction.
- Execution of Project Contract
- Construction activities are now eligible for reimbursement.

# Office of Local Programs

**Jackie Jones**  
**Program Coordinator**  
**Safe Routes to School**



# Safe Routes to School

- The Federal-aid SRTS Program was created by Section 1404 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users Act (SAFETEA-LU), signed into Public Law on August 10, 2005.
- The SRTS Program is funded at \$612 million over five Federal fiscal years (2005-2009).
- SRTS is administered by the Federal Highway Administration (FHWA) Office of Safety.



# Safe Routes to School

- Approximately \$8 million in requests were submitted for 2008 Safe Routes to School Funds.





# SRTS Program Goals

The SRTS program is designed to enable and encourage children, including those with disabilities, to walk and bicycle to school; to make bicycling and walking to school a safer and more appealing transportation alternative; and to facilitate the planning, development, and implementation of projects and activities that will improve safety and reduce traffic, fuel consumption, and air pollution in the vicinity of schools.



# Five Es

- FHWA recommends implementing the following 5 components to ensure a comprehensive SRTS program:
  - Engineering
  - Education
  - Enforcement
  - Encouragement
  - Evaluation

# Five Es

- **Engineering**-creating operational and physical improvements to the infrastructure surrounding schools that reduce speeds and potential conflicts with motor vehicle traffic, and establishing safer and fully accessible crossings, walkways, trails, and bikeways.
- **Education**-teaching children about the broad range of transportation choices, instructing them in important lifelong bicycling and walking safety skills and launching driver safety campaigns in the vicinity of schools.

# Five Es

- **Enforcement**-partnering with local law enforcement agencies to ensure traffic laws are obeyed in the vicinity of schools (including the enforcement of speeds, yielding to pedestrians in crossings, and proper walking and bicycling behaviors), and to initial community enforcement such as crossing guard programs.
- **Encouragement**-events and activities to promote walking and bicycling.
- **Evaluation**-monitoring and documenting outcomes and trends through the collection of data both before and after the intervention.

# Eligible Activities

- **Infrastructure projects may include the planning, design and construction of projects that will improve the ability of students to walk and bicycle to school.**
  - Sidewalk improvements
  - Traffic calming and speed reduction improvements
  - Pedestrian and bicycle-crossings improvements
  - On-street bicycle facilities
  - Off-street bicycle and pedestrian facilities
  - Secure bicycle parking facilities
  - Traffic-diversion improvements within two miles of the school

# Eligible Activities

- **Non-Infrastructure Related Activities**
  - Public awareness campaigns and educational materials
  - Traffic education and enforcement in the vicinity of the school
  - Student sessions on bicycle safety, health and the environment
  - Training for volunteers and managers of SRTS programs.

# Ineligible Activities

- Recurring costs (e.g. salaries)
- Drop-off /pick-up points that are for the convenience of drivers and/or buses.
- Educational programs that are not focused on bus safety.
- Improvements to bus stops.



# Specific Funding Guidelines

- Reimbursement Program
- 2 budget amendments may be requested
- Davis-Bacon will apply to **all SRTS infrastructure** projects even if they are not within the federal ROW
- Matching funds are not required.

# Time Limit For Funding

- All projects must be completed within 18 months from the date of the executed contract.
- Projects surpassing 18 months may be cancelled and all federal funds may be returned.
- Extensions may be granted. Extension requests must be submitted in writing to the SRTS Coordinator.
- Extension requests should contain:
  - Project Sponsor
  - Project Number
  - Federal Programming Number
  - Detailed reason for project extension
  - Date on which the requested extension will expire



# Program Materials

- All Program Materials can be found on the KY SRTS Website, [www.saferoutes.ky.gov](http://www.saferoutes.ky.gov).
- Examples:
  - Guidelines
  - Surveys
  - Lesson plans
- Sponsors should regularly check the website for updates on the Kentucky program, SRTS events, and other materials.

# Walk to School Day

- Held in October each year
- International Event
- Raise awareness of how walkable/bikeable a community is and where improvements can be made
- Raise concern for the environment
- Reduce traffic congestion, pollution, and speed near schools
- Share valuable time with local community leaders, parents, and children
- [www.walktoschool.org](http://www.walktoschool.org)



# Housekeeping Items

- Need a Point-of-Contact (POC) for each project
- Signage-Kentucky SRTS Active Community Signs
- Logo Use



# Traffic Considerations for State Roads

- All infrastructure projects must comply with Manual on Uniform Traffic Control Devices (MUTCD).
- KYTC Standard Specifications for Road and Bridge Construction
- Any other federal or state regulation

# Traffic Considerations for State Roads

- All projects on state-maintained roads **must** go through the encroachment permit process if on or adjacent to the right-of-way.
- Contact your highway district office for information on obtaining an encroachment permit.



# Encroachment Permits

- Encroachment Permit (TC 99-1)
- Encroachment Permit Bond (TC 99-7)
- Encroachment Permit General Notes & Specifications (TC 99-21)
- All forms can be found on the KYTC website under the Forms Library.
- Before completing any forms, call the district office and speak to the Permits Branch.

# Traffic Considerations for State Roads

## Permit Requirements

1. Preliminary Contact
2. On-Site Meeting
3. Plans, Drawings and Specifications
4. Indemnity
5. Outline of responsibilities and general construction practices
6. Completion of work and release permit

# Traffic Considerations for State Roads

## Things to Consider:

- You may be able to accomplish parts of the SRTS plan using existing traffic and safety programs.
- Items such as routine signs, markings school speed zones, traffic signals, flashing beacons and LED warning signs can be requested from Highway Offices Districts and do not typically require SRTS funding.

# Traffic Considerations for State Roads





# Traffic Considerations for State Roads



# Traffic Considerations for State Roads



# Websites

- Federal Highway Administration Guidance for the SRTS Program  
<http://safety.fhwa.dot.gov/saferoutes/srtsguidance.htm>
- United States Department of Labor , Davis-Bacon & Related Acts  
<http://www.dol.gov/esa/whd/programs/dbra/index.htm>
- Manual on Uniform Traffic Control Devices  
<http://mutcd.fhwa.dot.gov/>
- Kentucky 2008 Standard Specifications for Road and Bridge Construction  
<http://transportation.ky.gov/construction/spec/spec08.htm>
- KYTC District Offices  
<http://transportation.ky.gov/district.htm>

# Office of Local Programs

**Kathy Woods**  
**Program Coordinator**  
**Congestion Mitigation & Air Quality**





# Congestion Mitigation & Air Quality



*CMAQ Outreach Project  
Air Pollution Control District, Louisville*

- The Congestion Mitigation & Air Quality (CMAQ) Program is a federally funded reimbursement program targeting air quality improvement.
- Approximately \$31 million in requests were submitted for 2009 funds.

# Congestion Mitigation & Air Quality

- Created under the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991
- Continued under the Transportation Equity Act for the 21<sup>st</sup> Century (TEA-21)
- Reauthorized by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETELU)
  - Over \$8.6 billion provided to state DOTs (2005-2009)

# Congestion Mitigation & Air Quality

- Funds transportation projects and programs to help achieve and maintain National Ambient Air Quality Standards (NAAQS)
  - Promote cleaner motor vehicles
  - Improve travel efficiency
  - Provide alternatives to Single Occupancy Vehicle travel

# CMAQ Eligible Areas

- CMAQ funds must be spent in nonattainment or maintenance areas as determined by the EPA.
- The following areas in KY are eligible for funding:
  - Lexington (Fayette County)
  - Louisville (Bullitt, Jefferson, & Oldham Counties)
  - Northern KY (Boone, Kenton, & Campbell Counties)
  - Hopkinsville (Christian County)
  - Ashland (Boyd County)
  - Daviess, Edmonson, Marshall, & Scott Counties
  - Parts of Greenup, Hancock, Lawrence, & Livingston Counties

# CMAQ Eligible Activities

At a minimum all projects shall meet the following requirements to be considered for selection:

- Project must have a transportation relationship
- Project must reduce emissions
- Project and applicant must be located within an eligible area
  - With approval from FHWA project may be located in proximity to eligible area if benefits are in eligible area.

# CMAQ Ineligible Activities

- Highway and Transit Maintenance and Reconstruction Projects
  - Routine maintenance and rehabilitation on existing facilities maintains the existing levels of highway and transit service, and therefore maintains existing ambient air quality levels.
- Construction of SOV Capacity
  - Construction projects which will add new capacity for single occupancy vehicles (SOV) are not eligible.

# CMAQ Ineligible Activities (cont.)

- Light-duty vehicle scrappage programs.
- Stand-alone projects to purchase fuel
- Operating Assistance

# CMAQ Ineligible Activities

- Salaries not eligible for reimbursement.
- Staff time directly related to an eligible project activity may be reimbursed.
- Fringe benefits may count towards the match.
- Budgets must accurately reflect staffing costs.



# CMAQ Timeline

- Project selection
- Project added to Transportation Improvement Plan (TIP) (if metropolitan area)
- Project added to the Statewide Transportation Improvement (STIP) Plan
- Environmental Review
- Funding authorized by FHWA
- Execution of Project Contract
- Design activities are eligible for reimbursement
- Section 106 Review
- Construction activities are now eligible for reimbursement

# Office of Local Programs

**Jayne Combs**

**Program Coordinator**

**Scenic Byways**

**Transportation Community and System Preservation**



# Scenic Byways

- The Scenic Byways and Highways program is a unique opportunity for government, private citizens and organizations through cooperative efforts to protect the state's natural scenic resources, promote tourism, foster associated economic development, and maximize the potential of little traveled or bypassed roads.

# Scenic Byways

- A scenic highway or byway has roadsides or viewsheds with scenic (aesthetic), natural, cultural, historical, archaeological, and/or recreational value worthy of preservation, restoration, protection, and enhancement.
- Kentucky has 33 state-designated byways and 3 nationally-designated byways.

# Scenic Byways

- **The Scenic Byway Program serves to:**
  - Establish specific criteria for designation as a scenic highway or byway
  - Review applications for designation to the statewide scenic system
  - Officially designate or de-designate routes for the statewide scenic byways system
  - Oversee statewide signage and promotion
  - Administer and recommend funds for projects related to the scenic byways system

# Scenic Byway Designation

- Any state or local government entity can nominate (sponsor) a route. Groups such as
  - Tourism departments
  - Non-profit organizations
  - Individuals**are to be in partnership with the government sponsor.**
- Applicants groups should unite public and private support and resources along the route.



# Funding Application Process

- Eligible government sponsors may nominate any Kentucky Scenic Byway for National Scenic Byway designation and/or possible program funding, normally once per year
- Interested parties must submit an Intent-to-Apply prior to submission of a full application
- Acceptable projects as determined by OLP shall apply for federal funds at [www.bywaysonline.org](http://www.bywaysonline.org).
- Project selection occurs at the national level
- OLP administers all Scenic Byways and Highways funds awarded by the federal government.



# Scenic Byways

- Projects must be constructed within or immediately adjacent to the right-of-way of the scenic byway.
- Activities eligible for National Scenic Byways funding are found on page 65 of the OLP Program Guidelines.



# Scenic Byways Timeline

- Project selection
- Submission of additional information (as applicable) to OLP
- Project added to Transportation Improvement Plan (TIP) (if metropolitan area)
- Project added to the Statewide Transportation Improvement (STIP) Plan
- Environmental Review
- Funding authorized by FHWA
- Execution of Project Contract

# Scenic Byways



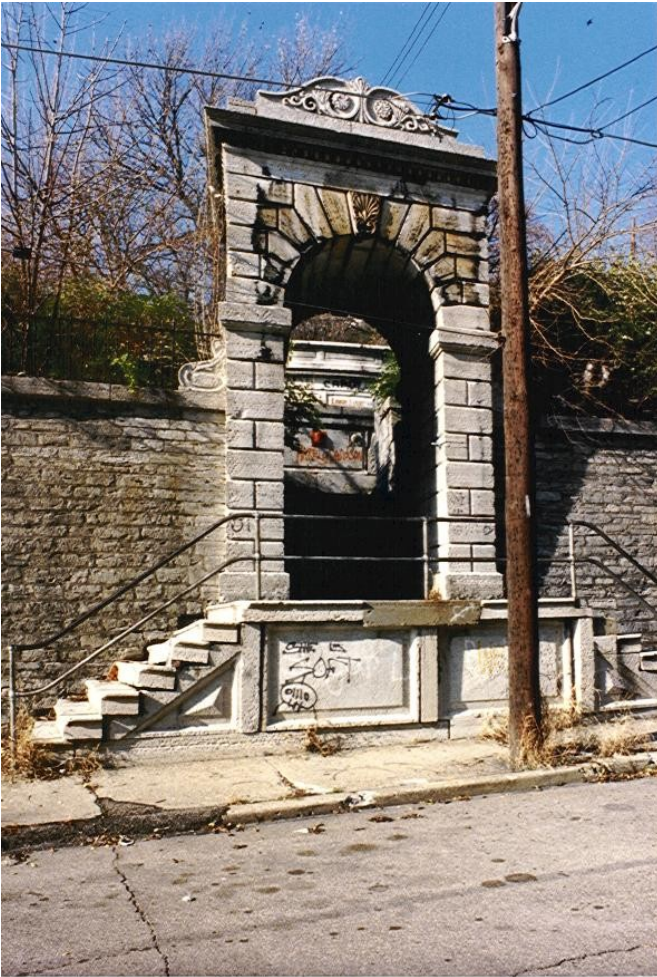
*Mountain HomePlace - Country Music Highway  
National Scenic Byway*

# Scenic Byways



*Cumberland Gap Tunnel - Wilderness Road Heritage Highway  
National Scenic Byway*

# Transportation Community and System Preservation



- The Transportation, Community, and System Preservation (TCSP) Program is part of the “Livability Initiative”, which serves to help citizens and communities.



# Transportation Community and System Preservation

- Preserve green space
- Ease traffic congestion
- Restore a sense of community
- Promote collaboration among neighboring communities
- Enhance economic competitiveness



# Transportation Community and System Preservation

- States, Metropolitan Planning Organizations, local governments, and tribal governments are eligible to apply for projects that meet the following objectives:
  - Improve the efficiency of the transportation system
  - Reduce environmental impacts of transportation
  - Reduce the need for costly future public infrastructure investments
  - Ensure efficient access to jobs, services and centers of trade
  - Examine development patterns and identify strategies to encourage private sector development patterns.



# Transportation Community and System Preservation

- TCSP is not an allocation program
- Projects are identified or funded through earmarking or annual solicitation of applications.

# BREAK!



# Office of Local Programs

**Mike Jones**

**Historic Preservation Coordinator**



# Environmental Review

- All projects shall conform with:
  - National Environmental Policy Act (NEPA)
  - Section 4(f) of 49 United States Code (USC) 303
  - National Historic Preservation Act
- Division of Environmental Analysis reviews projects for impacts on biology, fish and wildlife and archaeology.

# Section 106

- Section 106 review takes its name from Section 106 of the National Historic Preservation Act of 1966.
- The Historical Review checks to make sure any properties, sites, structures, etc that are listed on the National Register for Historic Places or eligible to be listed on the register are not harmed by the project.

# Programmatic Categorical Exclusion Joint Memorandum

- Will not induce any significant impacts to planned growth or land use for the area
- Will not require the relocation of significant numbers of people
- Will not have a significant impact on any cultural, recreational, historic or other resource
- Will not involve significant air, noise, or water quality impacts

# Programmatic Categorical Exclusion Joint Memorandum

- Will not have significant impacts on travel patterns
- Will not otherwise, either individually or cumulatively, have any significant environmental impacts
- May also include an archaeological determination

# ADA Compliance

- 20 percent (54 million) of the U.S. population over the age of 15 has a disability (*2000 Census*)
- 17 million Americans have serious hearing disabilities (*2000 Census*)
- 10 - 12 million have visual impairments
- Facilities constructed with Federal funds must be physically accessible

# Americans With Disabilities Act (ADA)

- Signed into law in 1990
- Regulations in effect since 1992
- Covers entities that the 1973 Rehabilitation Act did not.

# Alterations to Existing Facilities

- When an existing facility or part of an existing facility is altered, it must be made readily accessible to and usable by individuals with disabilities, to the maximum extent feasible.
- Applies to facilities altered after January 26, 1992



# Accessibility of Existing Facilities

- Public entities do not need to take actions that would result in fundamental alteration in programs or undue financial or administrative burdens, or...
- Destroy the historic significance of historical sites to achieve accessibility. (other means of accessibility at the site are required)
- Always document these determinations!

# Accessibility of New Facilities

- Facilities or parts of facilities that are newly constructed after January 26, 1992 must be readily accessible and usable by individuals with disabilities.
- Temporary Structures/Construction Zones must also be accessible.

# Pedestrian Access Minimum Requirements

- One accessible route linking all facilities and services
- Sidewalks 48” minimum clear width
- Any sidewalk grade greater than 5% is a ramp.
- Cross-slope no greater than 2%
- Install curb ramps with detectable warning surface of truncated domes.

# ADAAG - Exceptions

- New construction- Structurally impracticable in rare circumstances due to terrain
- Alterations- Jeopardize structural integrity
- Historical Sites -threaten or destroy the historic significance of the building or facility
- Still provide alternate access route, accessible services or accessible facilities to the "maximum extent feasible" in all of the above
- Document all exception requests and decisions!

# Maintaining Accessibility

## Maintaining Accessibility 28 CFR 35.133

- State and local governments must maintain the accessible features of facilities in operable working conditions (for example, curb ramps, sidewalk breaks, buckled bricks)
- Poorly maintained facilities are not accessible or safe

# Curb Ramps

Required when:

- Streets, roads or highways are newly built or altered (including resurfacing); or sidewalks, crosswalks and paths are newly built or altered, when they intersect roads
- Change in level on pedestrian route or walkway is greater than 1/2" (ADAAG Standard)

# Curb Ramps

- The ADA specifically requires curb ramps for new construction and modification of existing facilities.
- Also required under the Federal-Aid Highway Act of 1973 and Section 504 49 CFR 27 (when Federal aid is used to construct pedestrian crosswalks)

# Pedestrian Accessibility Guidelines

- FHWA has published “Designing Sidewalks and Trails for Access”
- Part I is accessed on line at:  
[www.fhwa.dot.gov/environment/bikeped/access-1.htm](http://www.fhwa.dot.gov/environment/bikeped/access-1.htm)
- Part II is also accessed on line at:  
<http://www.fhwa.dot.gov/environment/bikeped/order.htm>

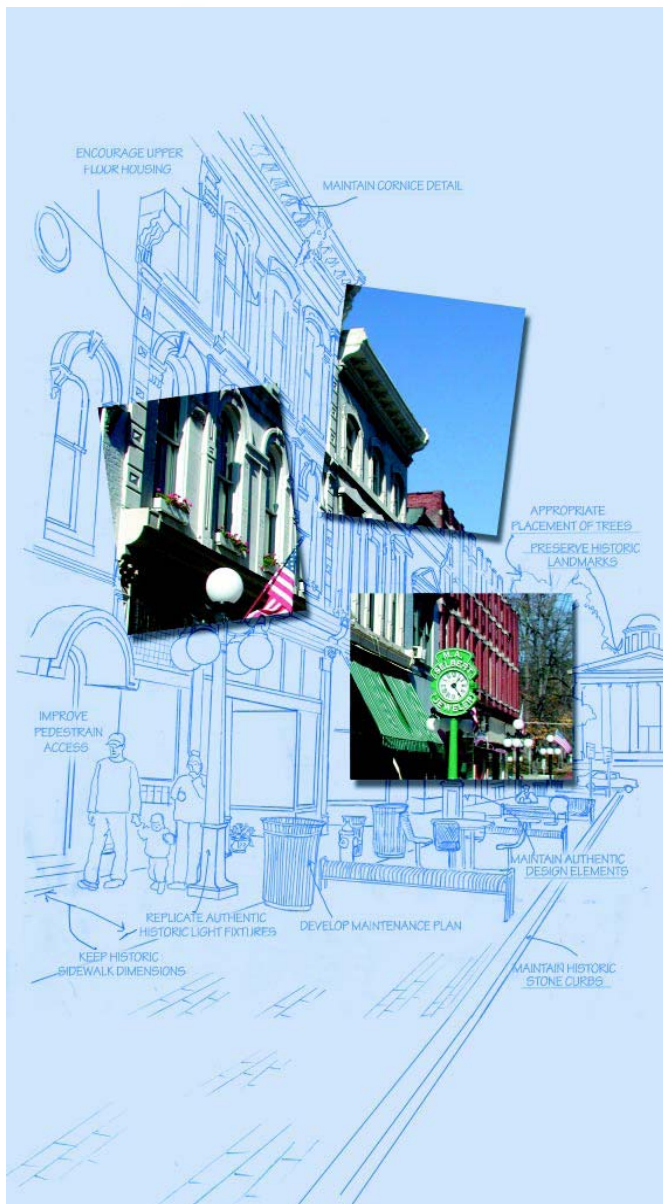


# ADA – For More Information

- US Department of Justice
  - [www.ada.gov](http://www.ada.gov)
- Access Board
  - [www.access-board.gov](http://www.access-board.gov)
- Equal Employment Opportunity Comm.
  - [www.eeoc.gov](http://www.eeoc.gov)
- US Department of Transportation/FHWA
  - <http://www.dot.gov/ost/docr>
  - <http://www.fhwa.dot.gov>

# Streetscape Guidelines

## Commercial Historic Districts



# Streetscape Guidelines

- *Table of Contents*
- *Introduction 6*
- *Downtown Design Goals 8*
  - *Design for People*
  - *Correct Infrastructure Pathologies*
  - *Maintain or Improve Mass and Space Relationships*
  - *Enhance Pedestrian Experience*
  - *Coordinate Public and Private Improvements*
  - *Enhance Individuality*
- *Design Guidelines 26*
  - *Pedestrian Paths*
  - *Lighting*
  - *Trees*
  - *Parking*
  - *Street Furniture*
  - *Signs and Information*

# Historical Documentation

- Provide proof of elements you want to use.
- [www.sternberglighting.com](http://www.sternberglighting.com)
- [www.holophane.com](http://www.holophane.com)



# Secretary of the Interior's Standards

- **Rehabilitation**
- Returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural, and cultural values.

# Design & Plan Review

- All architectural designs and plans must be submitted to the OLP for review and approval prior to construction.
- KY Streetscape Design Guidelines
- Secretary of the Interior's Standards for the Treatment of Historic Properties

[http://environment.transportation.org/documents/Design\\_Guidelin.pdf](http://environment.transportation.org/documents/Design_Guidelin.pdf)

<http://www.cr.nps.gov/hps/tps/standguide/index.htm>





- Provide Details



THE RENOVATION OF THE  
HISTORIC CADENTOWN SCHOOL  
LEXINGTON, KENTUCKY



© 2004 Blackwell Publishing Ltd *Journal of Internal Medicine* 255: 105–112



**EXPERIMENTAL**—The authors used a 60-min test protocol.

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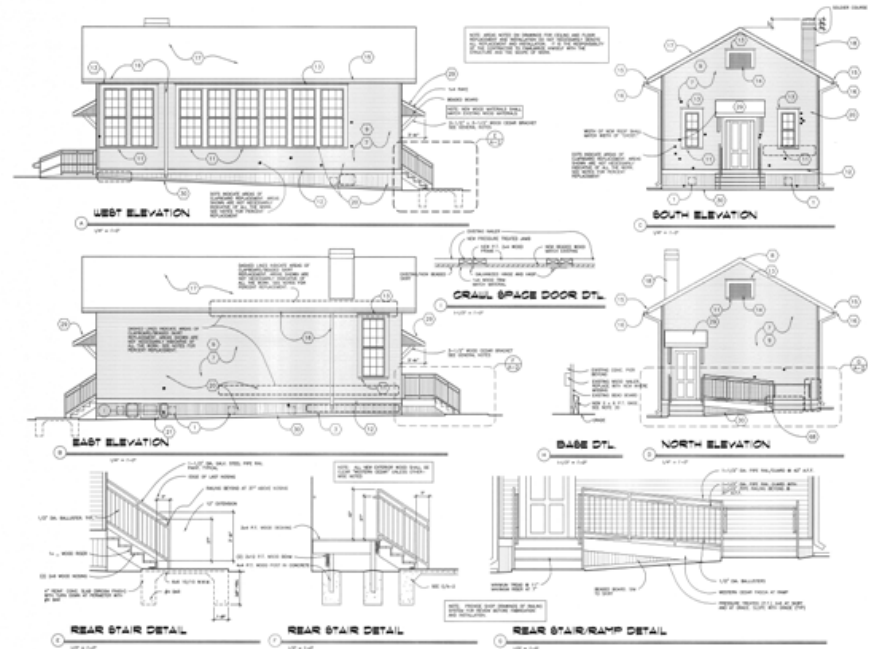
MECHANICAL/ELECTRICAL ENGINEERS  
KAISER-TAUBBE ENGINEERS, INC.  
1700 LEXINGTON BOULEVARD  
ANN ARBOR, MI 48106  
(313) 963-1000

## INDEX TO DRAWINGS

- |     |                                      |
|-----|--------------------------------------|
| 1.1 | CONTRACT AND/OR OF SERVICE AGREEMENT |
| 1.2 | CONTRACT, SERVICE, AGREEMENT         |
| 1.3 | CONTRACT, AGREEMENT, SERVICE         |
| 1.4 | CONTRACT, SERVICE, AGREEMENT         |

The following drawings are included for reference only and are not intended to be used for building purposes.

DOI: 10.1002/for

[illegible]

**Albert + Associates Architecture**  
The Historic Beck House 209 East High Street  
Lexington, Kentucky 40507-1401 859-252-0044

BUILDING 1414-109, CHINA

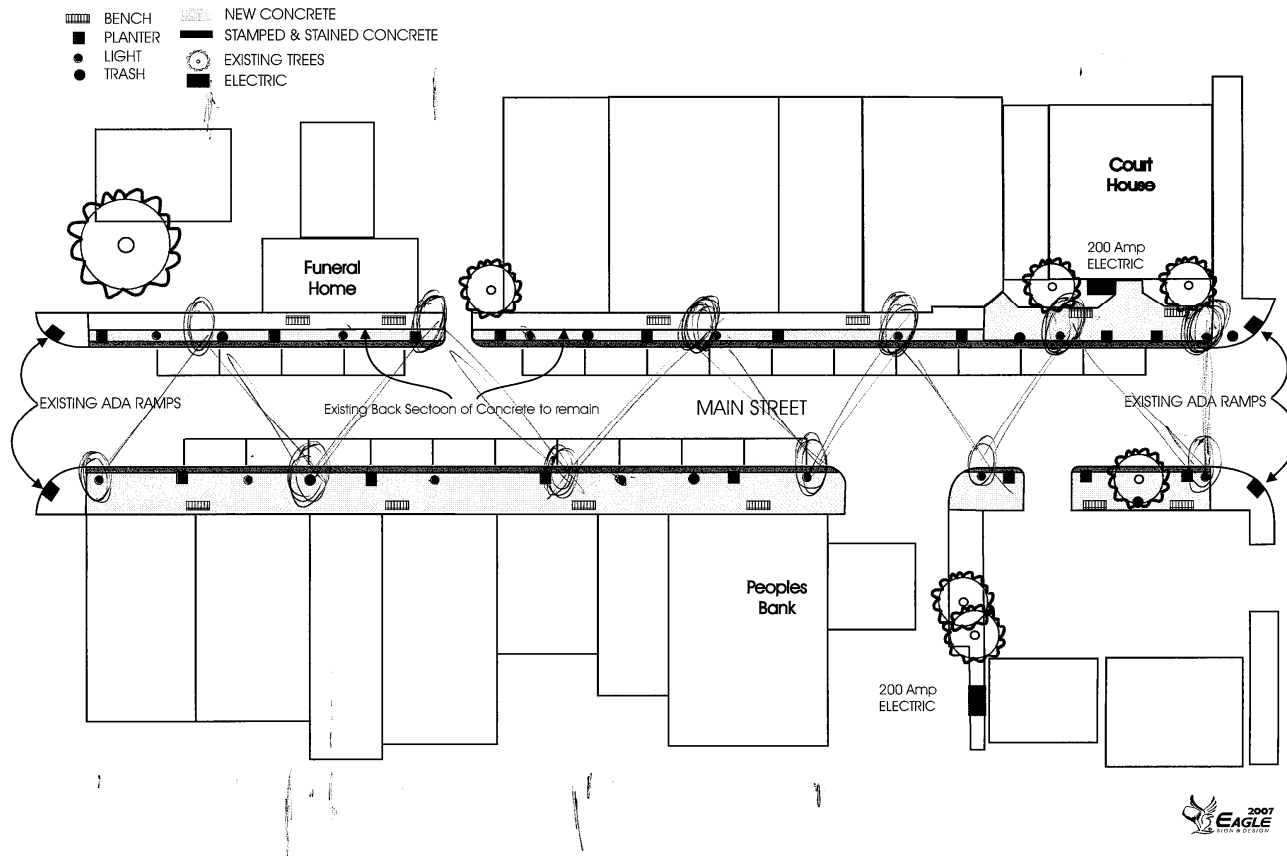
4-2



# Sample Plans

## *Historic Taylorsville* MAIN STREET

### PHASE I Main Street Renaissance ① NEW STREETSCAPE LAYOUT





# **Title VI / Non-discrimination Requirements**

**Kellie Watson**  
**Executive Director**  
**Office of Human Resource Management**



# What is Title VI of the Civil Rights Act of 1964?

- Federal law that prohibits discrimination on the basis of race, color, & national origin in Federally assisted programs & activities;
- The law specifically states:

“No person in the United States shall on the ground of race, color, or national origin be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance” (42 USC 2000d)

# What is Title VI of the Civil Rights Act of 1964?

- Amended Title VI;
- Restored the original intent of Title VI to **include all programs and activities** of Federal-aid recipients and contractors **whether federally funded or not**;
- Direct response to, and a **rejection of, the 1984 Supreme Court decision in the Grove City College vs. Bell case** (465 U.S. 555)
  - Federal agency nondiscrimination requirements limited to just those areas of the recipient's operation that directly benefited from Federal assistance



# What is Title VI of the Civil Rights Act of 1964?

- Not limited to prohibitions of Title VI of the Civil Rights Act of 1964 (Race, Color, National Origin)
  - Includes other civil rights provisions of Federal statutes and related authorities that prohibit discrimination in programs and activities receiving Federal financial assistance (23 CFR 200.5(p)).

# Other Nondiscrimination or Cross-Cutting Authorities

- Other Nondiscrimination authorities expanded the reach and scope of Title VI to include:
  - The 1970 Uniform Act (42 USC 4601) – (**Persons displaced or property acquired**)
  - Section 504 of the 1973 Rehabilitation Act (29 USC 790) - (**Handicap/Disability**)
  - The 1973 Federal-aid Highway Act (23 USC 324) – (**Sex**)
  - The 1975 Age Discrimination Act (42 USC 6101) – (**Age**)
  - Implementing Regulations (49 CFR 21 & 23 CFR 200)
  - Executive Order 12898 on Environmental Justice (**EJ**) – (**Low Income & Minorities**)
  - Executive Order 13166 on Limited English Proficiency (**LEP**) – (**Linguistic Minorities**)

# FHWA's Title VI Program

- Assures nondiscrimination on the ground of **race, color, national origin, disability/handicap, sex, age or income status** in programs or activities receiving financial assistance, whether those programs or activities are FHWA funded or not.



# What is the Purpose of Title VI ?

- To ensure that public funds are not spent in a way that encourages, subsidizes, or results in discrimination.

# What is the Intent of Title VI?

- To **eliminate barriers and conditions** that prevent **minority, low income, LEP, and other disadvantaged groups and persons** from receiving access, participation and benefits from Federally-assisted programs, services and activities.

# Title VI Authorities

- **Not threats but opportunities to:**
  - Give serious attention to effects of transportation decisions on human environment;
  - Redeem ourselves of oversights regarding past and lingering disparate actions towards disadvantaged persons.
- **Reminders**
  - Our professional responsibilities
  - Legal, Statutory, Regulatory, Constitutional & Civic duty
  - Fiduciary obligation & Customer service imperative
  - The GOLDEN RULE

# Who is a Subrecipient?

- **A Recipient**

- An entity or person to whom Federal assistance is **directly** extended and thereby subjects them to Title VI compliance obligations (23 CFR 200.5(n))

- **A Subrecipient**

- An entity or person to whom Federal assistance is **indirectly** extended either through a recipient or another subrecipient and thereby subjects them to Title VI compliance obligations (23 CFR 200.5(n))

# Who is a Contractor?

- **A Contractor/Subcontractor**

- “..any person, corporation, partnership, or unincorporated association that holds a FHWA direct or federally assisted construction contract or subcontract regardless of tier”

(23 CFR 230.407 (i))

- “One who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport” (49 CFR 26.5)

# What is the Relationship between a Recipient & a Contractor?

Recipient/Subrecipient	Contractor/Subcontractor, Consultant, Vendor
<ul style="list-style-type: none"><li>• Provides services</li></ul>	<ul style="list-style-type: none"><li>• Sells deliverables (goods &amp; services)</li></ul>
<ul style="list-style-type: none"><li>• Signs an <b>Assurance</b></li><li>• Not necessarily in business to make profit (Usually, public entity)</li></ul>	<ul style="list-style-type: none"><li>• Signs a <b>contract</b> with contract provisions</li><li>• In business (buy &amp; sell) to make profit (Operates in a competitive environment)</li></ul>
<ul style="list-style-type: none"><li>• Receives FFA (or paid) whether service is expensed as a deliverable or not</li></ul>	<ul style="list-style-type: none"><li>• Is paid for a specific deliverable</li></ul> <p>*Receipt of payment with FFA does not establish a recipient/subrecipient relationship</p>
<ul style="list-style-type: none"><li>• Designs a <b>program</b> to meet a broader goal</li></ul>	<ul style="list-style-type: none"><li>• Provides specific product or service ancillary to a Federal program</li></ul>
<ul style="list-style-type: none"><li>• Is receiving Federal financial assistance</li></ul>	<ul style="list-style-type: none"><li>• Could become a recipient with provision of [Federal financial] assistance.</li></ul>

# What is the Role of [Sub]Recipients in the Administration of Title VI?

- Federal-aid recipients required to develop a system of procedures and mechanisms (**methods of administration**) to assure nondiscrimination in all its programs, activities and services, whether Federally-funded or not;
- Efforts to prevent discrimination must address
  - **program's impact** upon access, benefits, participation, treatment, services;
  - contracting opportunities, training opportunities;
  - investigation of complaints, allocation of funds;
  - prioritization of projects and
  - the **functions** of planning, project development, design, right-of-way acquisition, construction, and research.

# Methods of Administration

- Design Methods of Administration to assure compliance with Title VI (49 CFR 21.7(b)(2); DOT Assurance #9)
- Minimum requirements:
  - Public outreach and education plan
  - Training program for State and subrecipients' staff
  - Procedures for processing complaints
  - Procedures for identifying and addressing Title VI issues
  - Program to assess and periodically report on status of Title VI compliance
  - Detailed plans for bringing discriminatory programs into compliance.



# Subrecipient Responsibilities

- Must have an **assurance** (49 CFR 21.7);
- Title VI Program (49 CFR 21.7(b)(2); DOT Assurance #9);
  - Policy Statement
  - Title VI Coordinator and Responsibilities
  - Procedures for assuring compliance
  - Training program
  - Enforcement program
  - Community Outreach & Public Education program
  - Complaints procedures
- **Compliance Reports & Data Collection** (49 CFR 21.9(b))
- **Nondiscrimination requirement for all contracts.**

# What are the Consequences For Noncompliance With Title VI?

- [Sub]Recipient found in noncompliance;
- Suspension or termination of Federal financial assistance;
- Refusal to grant or continue federal financial assistance;
- Any other means authorized by law
  - Refer to DOJ to enforce Federal law, assurance or contractual obligation
  - Utilize applicable proceedings under state or local law (49 CFR 21.13)

# Accounting Requirements

**Bob Scott**  
**Acting Director**  
**Division of Accounts**



# Pre-Payment Requirements

- Statutory language mandates independent pre-assessments (pre-audit) of payables
- Generally accepted accounting principles mandate proper internal control structure and separation of duties
- Multiple review function layers ensure minimum risk of errors and fraud

# Post Payment Scrutiny

- Auditor of Public Accounts
- FHWA
- FHWA Inspector General
- KYTC Internal Auditor
- KYTC Inspector General
- Project sponsor auditors

# Establishing a Program

- Projects are established in eMARS (state's accounting system) and receive a unique program number
- Awarded funds are obligated in eMARS to the program number
- Payments cannot exceed the obligated amount – unless there is a revision to the original agreement.

# Reimbursement Request Processing

- OLP reviews request from project sponsor
- Any deficiencies must be corrected
- OLP creates an electronic eMARS payment transaction
- OLP designee compares the eMARS transaction to supporting documentation
- OLP designee applies an electronic approval or rejection OLP forwards supporting documentation to Division of Accounts

# Pre-Audit Procedures

For reimbursement to occur, transactions must receive final approval from the Division of Accounts

Division of Accounts Federal Billing Branch

Reviews transactions to ensure expenditures are allowable by FHWA



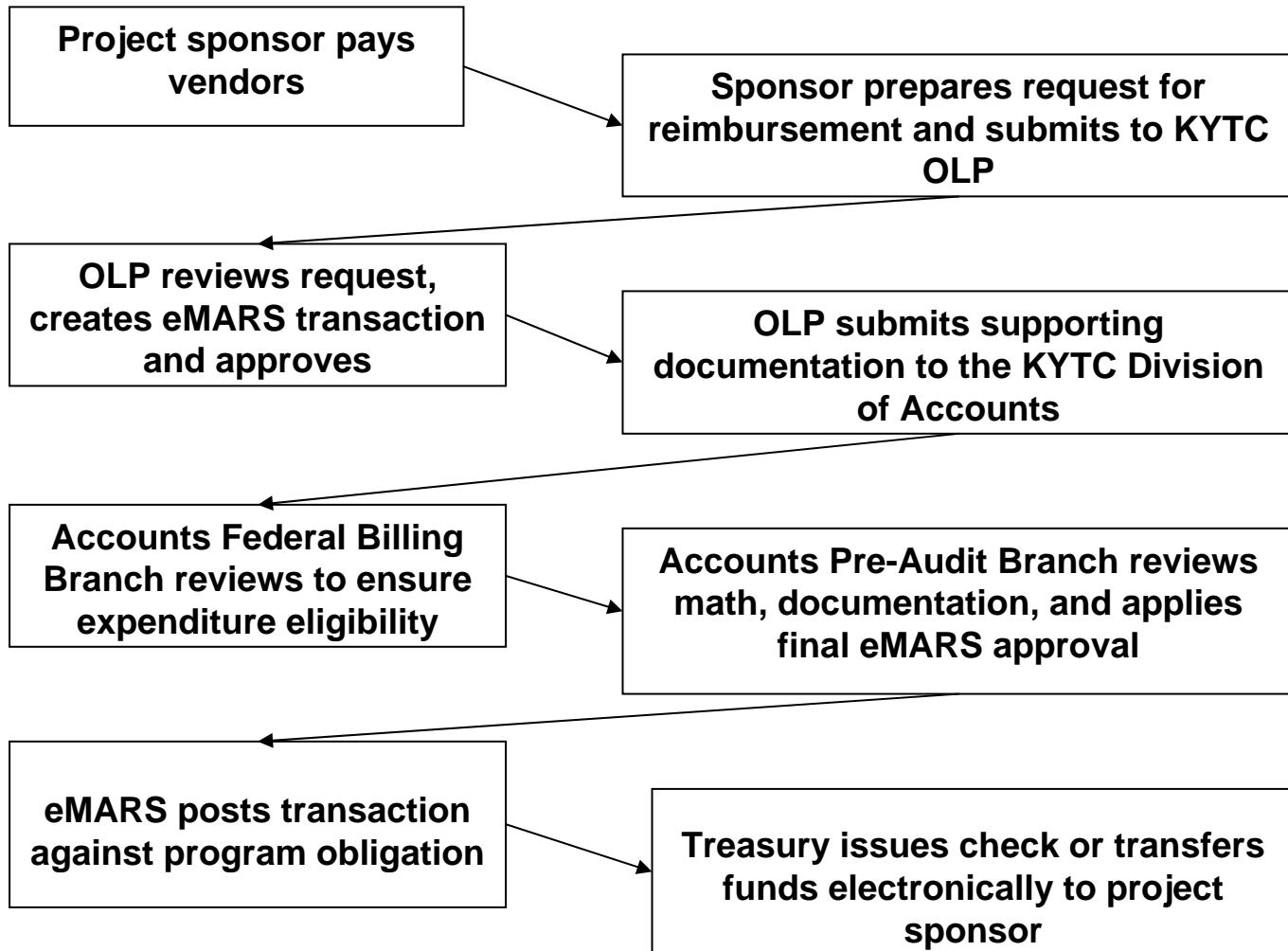


# Pre-Audit Procedures

## Supporting Documentation Review to Verify:

- Entity name and address are correct
- Invoice is mathematically correct
- Supporting document amounts equal amount requested in eMARS
- Documents are readable and complete
- There is proof that expenditures occurred – such as cancelled checks
- Documentation references correct program
- Expenditures occurred during valid time period

# Reimbursement Process



# How long will this take ?

- Every effort is made to pay within 30 working days
- Errors in requests or missing documentation will increase the timeline
- KYTC has almost 10,000 programs
- KYTC processes over \$10,000,000 per week in FHWA payments

# Avoiding Delays

- Be sure your vendors give you detailed invoices which reference the project
- Be sure vendor invoices are correct
- If you have multiple active projects, do not commingle reimbursement requests
- Check and double check all amounts
- Make sure all required documentation is submitted

# Division of Accounts Contacts

Bob Scott – Acting Division Director

Bob Goodman – Pre-Audit Supervisor

Cheryl Cole – Program Billing Branch

Phone: 502.564.7334



# Sponsor's Responsibilities

**Shane Tucker**  
**Federal Program Manager**



# Sponsor's Responsibilities

- Projects by nonprofit organizations are to be in partnership with a government sponsor (state or local government agency) in order to receive funding.
- All invoices, budget revisions, contracts and any correspondence must be submitted by the **sponsor.**

# Sponsor's Responsibilities

- Obtain required matching funds for TE, CMAQ, NSB, and TCSP Projects
  - 20% Minimum Required
- Administer the project
- Identify the project in its financial accounting and annual audit
- Arrange funding for long-term maintenance prior to the programming of funds



# Davis-Bacon Act

- The Davis-Bacon Act is a federal law that must be followed for federally funded projects.
  - The Act provides for a predetermined wage to be paid to laborers on Federal-aid projects exceeding \$2,000 that are located on a Federal-aid highway or within an existing right-of-way.
  - Whether or not the Act is applicable depends upon the facts and circumstances of the project.

# Davis-Bacon Act

*The following general rules are provided as guidance for complying with Davis-Bacon:*

1. If it is a federal government contract (and not a state contract with a total estimated project cost of more than \$250,000) for construction on some type of public works project of \$2,000 or more, the Davis-Bacon Act would apply.
2. If it is a federal fund sharing project with a state project (with a total estimated project cost of \$250,000 or less) and the federal funds are provided under a Davis-Bacon or Related Act (DBRA) requiring application of Davis-Bacon, the Davis-Bacon Act would apply.

# Davis-Bacon Act

*The following general rules are provided as guidance for complying with Davis-Bacon:*

3. If it is a federal fund sharing project with a state project, the estimated project cost is more than \$250,000, and the federal funds are provided under a DBRA requiring application of Davis-Bacon, then both the Davis-Bacon and state prevailing wage would be applicable, and the higher wage rate would apply to each classification.
4. If it is a federal fund sharing project with a state project, the estimated project cost is \$250,000 or less, and the federal funds are not provided under a DBRA requiring application of Davis-Bacon, then neither Davis-Bacon, nor the state prevailing wage would apply.



# Davis-Bacon Act

*The following general rules are provided as guidance for complying with Davis-Bacon:*

5. If it is a state project (no federal funds provided under a DBRA) under a contract issued by a public authority for construction of public works estimated to cost more than \$250,000, then the state prevailing wage would apply.
6. Applies to all federally funded SRTS projects

# Model Procurement Code

- The Model Procurement Code (MPC) is a state law that has been codified in KRS 45A.005, *et seq.* that the Commonwealth of Kentucky must follow when purchasing goods and services.
- A local public agency, such as city or county, by ordinance may choose to adopt a portion of the MPC. KRS 45A.343 is the statute allowing a city/county to adopt KRS 45A.345-360, which upon adoption must be followed in purchasing.

# Model Procurement Code

- KRS 45A.343 through KRS 45A.460
  - Local Public Agencies
- KRS 45A.385 Small Purchases
  - \$20,000 and Under
- KRS 45A.365 Competitive Sealed Bidding
  - Minimum of 7 Days Advertising
- KRS 45A.430 Bid Bonds
  - Exceeds \$25,000
  - Need 5% of Bid
- KRS 45A.435 Performance & Payment Bonds
  - Exceeds \$25,000
  - 100% of Contract Price

# Disadvantaged Business Enterprise Program

- Disadvantaged Business Enterprise (DBE)
  - The DBE program ensures equal opportunity for socially and economically disadvantaged small businesses.
  - DBE businesses requirements:
    - At least 51% owned by one or more individuals who are both socially and economically disadvantaged
      - For corporations, minimum 51% of stocks owned by one or more such individuals
    - Management and daily operations controlled by one or more of the disadvantaged business owners



# DBE Program Mission

- Helping to remove barriers to participation of DBEs
- Assisting the development of firms that can compete successfully in the marketplace outside the DBE program
- Providing maximum opportunity for DBEs to participate with other sub recipients and contractors that receive federally funded contracts



# Office for Civil Rights and Small Business Development

- The Office for Civil Rights and Small Business Development is primarily responsible for the processing of DBE Unified Certification applications.
  - Will conduct on-site reviews of DBE firms and compile a factual report of the information collected for presentation to the DBE Certification Committee.
- The Cabinet's current DBE goal is 7%. This proposed goal shall be achieved through 5% race conscious means by contract goals and 2% through race neutral means.



# Additional DBE Information

Certified DBE Directory & Additional DBE  
information is available at:

<http://transportation.ky.gov/OBOD/>



# Right-of-Way & Property Acquisition

- ALL appraisals must be conducted by a pre-qualified Kentucky Transportation Cabinet approved appraiser.
- Recommendations for a KYTC approved appraiser and guidance regarding appraisal requirements can be obtained by contacting the Division of Right-of-Way (ROW) at 502-564-3210.

# Appraisal Review Process

- The final approved value, as established by ROW, or the amount highlighted in the project application, whichever is less, will be the only value that will be used to determine the matching funds.
- OLP will reimburse up to 80% of the final approved value.
- NO Double Dipping.

# Appraisal Review Process

- Three (3) copies of the appraisal report shall be submitted to the Office of Local Programs (OLP).
- After submittal to OLP, the appraisal will be forwarded to ROW for review and final approval is provided by FHWA.
- If the acquisition is to include a preservation easement, the exact restrictions must be made available to the KYTC approved appraiser prior to the beginning of the appraisal process.

# Easement Requirements

- What is a preservation and conservation easement (hereinafter “Easement”)?
  - Kentucky law defines a conservation easement in KRS 382.800 as follows:
    - “A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations, the purposes of which include...preserving the historical, architectural, archaeological, or cultural aspects of real property.”
    - Basically, it is a legal and binding agreement that prohibits certain activity on the historic property once recorded in the local county clerk’s office.

# Easement Requirements

- When is it required?
  - For purposes of TE projects, an easement is required when a historic property, including those properties list in the National Register of Historic Places or Districts, are acquired or rehabilitated through with TE funds.
  - The Cabinet will be the holder of the Easement on the property.
  - Annual inspections will be performed to ensure that the historical integrity of the property remains intact and the terms of the Easement are being followed.
- The owner, if different from the Recipient to the Contract, must acknowledge by signing the KYTC Contract that the owner will enter into the Easement.



# Project Contract

- Upon authorization of funds, the contract will be prepared and reviewed by the KYTC legal counsel.
- Forwarded to sponsor for review, signatures, and a resolution from the city or county
  - The OLP must have a resolution from the city/county approving the agreement and indicating the Mayor's/Judge's Authority to enter into this agreement for and by the city/county. The resolution should be adopted, signed, and submitted as an attachment to the contract agreement.
  - We must have the original or certified resolution.
    - Certified means the copy of a document or record signed and certified as a true copy by the officer who retain the original
    - For example, the county/city clerk would be the officer who retains the original resolution and attests or certifies w/ an original signature and seal that the document is an exact copy of the original.
  - We will not execute the contract without the resolution.





# Project Contract

- The Sponsor submits the contract to the KYTC Office of Local Programs for final execution by the Secretary .
- A fully executed copy of the contract will be sent via mail to the Sponsor.
- No work shall commence until the contract is fully executed.

# Project Contract

- The project budget will be Attachment A to the contract.
- A maintenance plan will be Attachment B to the contract
- Attachment C will be the Local Government Resolution
- Attachment D will be the Project Invoice
- Reimbursement of federal funds is required if the project is not completed.
- **All activities that occur prior to the execution of the contract are not eligible for reimbursement or match.**

# Sample Resolution

**Whereas,** the SAFETEA-LU Federal Reimbursement Agreement is in the amount of \$\_\_\_\_\_ for  
the \_\_\_\_\_, and,

*Name of Project*

**Whereas,** the City of\_\_\_\_\_ does hereby authorize

Mayor\_\_\_\_\_ to sign the above mentioned Agreement, as

well as any other necessary documents relating to the project.

**or**

**Whereas,** \_\_\_\_\_County Fiscal Court does hereby authorize

County Judge Executive\_\_\_\_\_ to sign the above mentioned

Agreement, as well as any other necessary documents relating to the project.

**The vote taken on said Resolution, the result being as follows:**

**Motion Carried - Yes      No**

*Please circle one*

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_

**Title** \_\_\_\_\_

**Witness** \_\_\_\_\_



# Project Deadlines

- Contract between KYTC and the applicant must be executed within 1 year of the announcement.
- All projects must be completed within three years from the signing of the contract.

# Additional Info

- NO reallocation of funds to other projects is allowed.
- 2 budget revisions are allowed.
- Additional funds needed must be requested through the application process – Accurate budgets are VERY IMPORTANT.
- Yearly progress reports are due at the end of each calendar year.
- Recordkeeping
- Project Closure

# Reimbursement Process

- Office of Local Programs Invoice Attachment D
- All Invoices must be signed by the Sponsor (Mayor, Judge, Superintendent etc..)
- Reimbursement Process takes approximately 30 working days from receipt of the invoice when submitted correctly
- **Activities occurring prior to date of contract execution are not eligible for reimbursement.**

# Reimbursement Process

- Include Contract and Federal Number on all correspondence
- Include brief description of invoices & work completed
- Identify the amount of Disadvantaged Business Enterprise (DBE) participation for each invoice submitted (if applicable)
- Sponsor must have an approved Cost Allocation Plan (CAP) to receive reimbursement for prior approved, program specific indirect costs

# Invoices – Supporting Documentation

- Proof of Payment
  - Cancelled Checks
  - Credit Card Receipts
- Detailed Vendor Invoices
  - All receipts & invoices must have a header
  - Description of services or items purchased must be included
  - Signatures must be legible
- Requests for reimbursement of property acquisitions must contain proof of title transfer.



# Invoices – Supporting Documentation

- Match Documentation
  - Labor
    - Time Sheets
      - Must reflect hours employee devoted to project
      - Signed by employee and supervisor
    - Salary and benefit schedules
  - Property
    - Approved appraisal by KYTC Division of Right-of-Way
  - In-Kind Contributions
    - Documented and verifiable value of donated service
    - Use of City/County Equipment
      - Rental rates (where applicable)



# Auditing Requirements

- OMB Circular A-133
  - Sets forth standards for obtaining consistency and uniformity for the auditing of states, local governments, and non-profit organizations expending federal funds
  - Issued pursuant to the Single Audit Act of 1984, P.L. 98-502, and the Single Audit Act Amendments of 1996, P.L. 104-156

# Auditing Requirements

- OMB Circular A-133 Requirements
  - All sponsors expending more than \$500,000 in federal funds during a fiscal year **MUST** undergo an OMB A-133 audit.
  - The \$500,000 threshold is for all federal funds expended by the sponsor
    - Not just those received from KYTC.
  - Sponsors receiving less than \$500,000 from KYTC must determine if the amount of federal funds received meets the threshold
  - Failure to adhere to OMB A-133 requirements may result in withholding reimbursements until compliance is met.

# Auditing Requirements

- Sponsors must submit annually to OLP
  - A copy of their A-133 audit if federal expenditures exceed \$500,000

**OR**

- Certification that their federal expenditures from all sources did not exceed \$500,000

# Office of Local Programs

## QUESTIONS?

200 Mero Street  
Frankfort, KY 40622  
502-564-2060

